

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Timothy & Anna Hope

Date application filed with the Town Clerk: June 22, 2009

Nature of request: Request for Special Permit to alter, with no expansion, a non-conforming dwelling, under Section 9.22 of the Zoning Bylaw

Address: 15 Cranberry Lane (Map 18B, Parcel 214, RN District)

Legal notice: Published on June 24 and July 1, 2009 in the Daily Hampshire Gazette and sent to abutters on June 24, 2009

Board members: Tom Simpson, Hilda Greenbaum and Tom Ehrgood

Submissions:

- One (1) copy of Memorandum, ZBA FY2009-00041, dated July 2, 2009;
- One (1) copy of the ZBA application, filed with the Town Clerk on June 22, 2009;
- One (1) copy of a completed Management Plan form;
- One (1) copy of a site plan (Town GIS map);
- One (1) copy of a partial survey prepared by Randall Izer;
- One (1) copy of color rendering of the improvement (enclosing an existing screened porch);
- One (1) copy of construction plans prepared by TNT Consulting;
- One (1) copy of a Town GIS map showing the existing structure setbacks, submitted by staff.

Site Visit: July 6 and July 8, 2009

Tom Simpson, Hilda Greenbaum and Tom Ehrgood viewed the site. The Board members observed the following:

- The location of the existing building on the east side of the cul-de-sac at the end of Cranberry Lane;
- The location of the existing single family dwelling in close proximity to other properties along the north and south and bordered by protected wetland and conservation areas to the east;
- The existing single family dwelling, under interior renovation, containing a carport and existing screened porch at the rear of the dwelling;
- The interior of the existing screened porch with access to the rear yard via a screen door;
- The approximate location of the rear property line in close proximity to the existing screen porch.

Public Hearing: July 9, 2009

Ms. Hope was accompanied by Randall Roberts, the general contractor for the project. Ms. Hope stated the following:

- They are currently conducting interior renovations to their home and planned to convert their existing screened porch to living space;
- They learned that the dwelling is non-conforming to the required rear yard setback and that a Special Permit is needed in order to alter the non-conforming dwelling;
- They are not proposing to change to the footprint of the existing porch, but the roof line will be changed;
- They had their surveyor prepare a map showing the approximate location of the porch relative to the rear property line.

Mr. Simpson stated that the partial survey from Randall Izer of Harold Eaton Associates shows that the rear of the dwelling is 13 feet from the property line but that the porch is much closer, about 4 feet. He added that the Town GIS information, submitted by staff shows the porch as being approximately 8 feet from the property line.

Mr. Bagg stated that the information on the Town's GIS is only a tool to be used for reference, and that the stamped plan prepared by the surveyor should be utilized.

Mr. Simpson stated that the existing porch plans show that the porch extends outward 9 ½ feet and that the proposed porch plans shows that the porch extends outward 10 ½ feet and asked whether the new porch was going to extend outward past the existing porch.

Mr. Roberts stated that the existing porch has an existing roof overhang that extends 10 ½ feet outward from the house. He added that the proposal includes changing the roof line such that the exterior of the new porch wall will extend up to, but not beyond, the farthest portion of the existing roof overhang. He stated that the plans for the proposed porch state that the new walls will not go beyond the existing porch roof overhang.

Ms. Greenbaum asked the applicant whether the porch was built at the same time as the house.

Ms. Hope stated that the porch was on the house when they purchased it, but that she believed it was built after the house was built.

Ms. Weeks stated that the porch and dwelling are non-conforming structures that have been used for residential purposes for more than six (6) years and are therefore protected, but subject to the requirements of the Amherst Zoning Bylaw for alteration of non-conforming buildings.

Mr. Simpson asked if any members of the public wanted to speak regarding this application. Three residents, Barbara Saltz of 14 Cranberry Lane, Janice Denton of 17 Cranberry Lane and John Wade of 5 Cranberry Lane all spoke in support of the application.

Ms. Greenbaum MOVED to close the public hearing. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to close the public hearing.

Public Meeting:

During the public meeting the Board drafted conditions and findings that would be appropriate if the Special Permit were to be approved.

Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses. The proposal is to convert an existing screened porch into living space. Although the footprint will expand by approximately 1 foot, it does not increase the degree of nonconformity with respect to the rear yard setback because the roof line of the existing porch extends that 1 foot beyond the porch's footprint. The living space will be used by the owner and is a use very commonly found in a residential neighborhood. The porch is located at the rear of the dwelling and in close proximity to the rear property line that is adjacent to a vacant and protected wooded area.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site and will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The proposal will not cause any nuisances, other than typical activity that may occur during construction. The proposal will not be detrimental or offensive because the use of the porch area will remain residential in nature and the proposal does not increase the degree of non-conformity.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw because it promotes the health safety, convenience and general welfare of the inhabitants of the Town of Amherst. This permit allows for an existing screened porch to be converted to living space with an expanded footprint of approximately 1 foot, but does not increase the degree of nonconformity with respect to the rear yard setback. The use of the converted space is commonly found in residential neighborhoods.

Public Meeting – Zoning Board Decision

Mr. Simpson moved to APPROVE the application with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2009-00041, to allow the alteration of a non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw, as applied for by Timothy and Anna Hope, at 15 Cranberry Lane (Map 18B, Parcel 214, RN District), with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

TOM EHRCOOD

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2009.
NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00041, to allow the alteration of a non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw, as applied for by Timothy and Anna Hope, at 15 Cranberry Lane (Map 18B, Parcel 214, RN District), with the following conditions:

1. The improvements shall be built in accordance with the plans prepared by TNT Consulting dated June 2009 and stamped approved by the Zoning Board of Appeals on July 9, 2009;
2. The improvements shall not extend farther than the existing roof overhang and shall not increase the degree of non-conformity with respect to the rear property line;
3. Any substantial changes to the improvements shall be submitted to the Board at a public meeting for review and approval by the Zoning Board of Appeals.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE